

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

TIMOTHY DENNY,

Plaintiff,

vs.

Case No. 06-CV-620-FHM

MICHAEL J. ASTRUE,
Commissioner, Social Security
Administration,

Defendant.

ORDER

Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act [Dkt. 38] is before the Court for decision. The Motion is GRANTED as provided herein.

Plaintiff seeks an award of attorney fees in the amount of \$5,562.81 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. [Dkt. 38]. The Commissioner agrees that Plaintiff should be awarded fees in the requested amount. [Dkt 39]. There is no dispute that the fee award should be made payable to Plaintiff and be mailed directly to his attorney. [Dkt. 38, p. 3; Dkt. 39, pp. 2-3].

The undersigned finds that the amount of the fee request is reasonable. Based on that finding and the absence of any objection to the amount of the fee request, the undersigned finds that Plaintiff should be awarded EAJA fees in the amount of \$5,562.81. Pursuant to the Commissioner's usual practice, the check should be made payable to Plaintiff and mailed to counsel's address. If Plaintiff's attorney receives the fees awarded herein and attorney fees are also awarded and received by counsel under 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Plaintiff's Motion for Attorney's Fees and Expenses Under the Equal Access to Justice Act [Dkt. 38] is GRANTED as provided herein.

SO ORDERED this 1st day of May, 2008.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE